

AMENDED IN ASSEMBLY APRIL 25, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1144**

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**Introduced by Assembly Member Harman**

February 22, 2005

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An act to amend Sections 115725, 115730, 115735, 115745, and 115750 of the Health and Safety Code, relating to playground safety.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1144, as amended, Harman. Playground safety standards.

Existing law requires the State Department of Health Services, in consultation with specified other agencies and entities, to adopt regulations for the design, installation, maintenance, inspection, supervision where appropriate, and training of personnel involved in the design, installation, and maintenance, of playgrounds either operated by public agencies or operated by any entity where the playground is open to the public.

This bill would require the state department to adopt and amend, as necessary, its playground safety standards in order to meet current ASTM (American Society for Testing and Materials) standards for playground safety and other specified standards that relate to the design, installation, inspection, and maintenance of a playground and playground equipment.

The bill would provide that an operator of a playground open to the public that was certified in compliance with January 1, 2000, state playground regulations shall not be required to modify playground equipment due to any changes in regulations that occur after January 1, 2006.

The bill would also delete obsolete provisions, make other conforming changes, and revise the definition of “playground.”

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 115725 of the Health and Safety Code  
2 is amended to read:

3 115725. (a) The state department, in consultation with the  
4 Office of the State Architect, the California Parks and Recreation  
5 Society, the League of California Cities, the Department of Parks  
6 and Recreation, the State Department of Education, and the  
7 California Council of the American Society of Landscape  
8 Architects, shall adopt regulations for the design, installation,  
9 inspection, maintenance, and supervision where appropriate, and  
10 training of personnel involved in the design, installation, and  
11 maintenance, of all playgrounds either operated by public  
12 agencies, including a state agency, city, county, city and county,  
13 school district, and any other district, or operated by any entity  
14 where the playground is open to the public.

15 (b) (1) Those regulations shall be consistent with the current  
16 ASTM (American Society for Testing and Materials) standards,  
17 ASTM F1487, for playgrounds and shall be amended, as  
18 necessary, to conform to the most recent ASTM playground  
19 safety standards as these are revised.

20 (2) The regulations shall also meet the standard of care  
21 imposed by courts of law on playground operators, and shall, at a  
22 minimum, impose guidelines and criteria that shall be at least as  
23 protective as all of the following:

24 (A) The guidelines in the Handbook for Public Playground  
25 Safety produced by the United States Consumer Products Safety  
26 Commission (CPSC Handbook), Publication Number 325,  
27 November 1997.

28 (B) The Standard Specification for Playground Equipment for  
29 Public Use, Designation: F1487.

30 (C) The Standard Specification for Impact Attenuation of  
31 Surface Systems Under and Around Play Equipment (ASTM  
32 Standard), Designation: F1292.

1 (D) The Standard Specification for Determination of  
2 Accessibility of Surface Systems Under and Around Playground  
3 Equipment (ASTM Standard) Designation: F1951.

4 (3) The regulations shall give due consideration to any  
5 successor to the Handbook for Public Playground Safety that  
6 may be published, and shall include more protective  
7 requirements where the state department finds those guidelines  
8 will provide inadequate protection.

9 (c) The regulations shall include special provisions for  
10 playgrounds in day care settings, that shall be developed in  
11 consultation with the State Department of Social Services and the  
12 California Children's Lobby, and that shall be appropriate for  
13 children within the range of ages in day care settings. The state  
14 department shall not be responsible for enforcement of any  
15 regulations pursuant to this section.

16 SEC. 2. Section 115730 of the Health and Safety Code is  
17 amended to read:

18 115730. (a) All public agencies operating playgrounds,  
19 including a state agency, city, county, city and county, and  
20 district, shall upgrade their playgrounds by replacement or  
21 improvement as necessary to satisfy the regulations adopted  
22 pursuant to Section 115725 to the extent state funds are made  
23 available specifically for that purpose through state bonds or  
24 other means. All other entities operating playgrounds open to the  
25 public shall upgrade their playgrounds by replacement or  
26 improvement, as necessary to satisfy the regulations adopted  
27 pursuant to Section 115725.

28 (b) (1) Subdivision (a) and the regulations adopted pursuant  
29 to Section 115725 shall not apply to playgrounds installed  
30 between January 1, 1994, and December 31, 1999. Those  
31 playgrounds shall be subject to the requirements to upgrade set  
32 forth in this subdivision until 15 years after the date those  
33 playgrounds were installed, at which time those playgrounds  
34 shall be subject to subdivision (a) and the regulations adopted  
35 pursuant to Section 115725.

36 (2) All public agencies operating playgrounds installed  
37 between January 1, 1994, and December 31, 1999, shall upgrade  
38 those playgrounds by replacement or improvement as necessary  
39 to satisfy criteria that are at least as protective as the guidelines in  
40 the Handbook for Public Playground Safety, Publication Number

1 325, United States Consumer Product Safety Commission,  
2 November 1994, to the extent that state funds are made available  
3 specifically for that purpose through state bonds or other means.

4 (3) All other entities operating playgrounds open to the public  
5 and installed between January 1, 1994, and December 31, 1999,  
6 shall upgrade those playgrounds by replacement or improvement  
7 as necessary to satisfy criteria that are at least as protective as the  
8 guidelines in the Handbook for Public Playground Safety,  
9 Publication Number 325, United States Consumer Product Safety  
10 Commission, November 1994.

11 (c) All public agencies operating playgrounds and all other  
12 entities operating playgrounds open to the public shall have a  
13 playground safety inspector, certified by the National Playground  
14 Safety Institute, conduct an initial inspection for the purpose of  
15 aiding compliance with the requirements to upgrade set forth in  
16 subdivision (a) or (b), as applicable. Any inspection report may  
17 serve as a reference when the upgrades are made, but is not  
18 intended for any other use.

19 (d) This section shall not affect the liability or absence of  
20 liability of playground operators.

21 SEC. 3. Section 115735 of the Health and Safety Code is  
22 amended to read:

23 115735. For purposes of this article, all of the following shall  
24 apply:

25 (a) An “entity operating a playground open to the public”  
26 includes, but is not limited to, a church, subdivision, hotel, motel,  
27 resort, camp, office, hospital, shopping center, day care setting,  
28 and restaurant. An “entity operating a playground open to the  
29 public” shall not include a foster family home, certified family  
30 home, small family home, group home, or family day care home,  
31 which is licensed and regulated to meet child safety requirements  
32 enforced by the State Department of Social Services.

33 (b) “Playground” means an improved outdoor area designed,  
34 equipped, and set aside for children’s play that is not intended for  
35 use as an athletic playing field or athletic court, and shall include  
36 any playground equipment, fall zones, surface materials, access  
37 ramp, and all areas within and including the designated enclosure  
38 and barriers.

39 (c) “Supervision” includes all general and specific supervision  
40 necessary to protect children from unreasonable risk of harm

1 from site hazards, the acts of other children, or the use of the  
2 playground in a way that was not intended by the designer or  
3 manager of the playground. The regulations required pursuant to  
4 this article shall not expand on the periods or circumstances  
5 when supervision shall be provided beyond the periods or  
6 circumstances already determined to be within the existing  
7 standard of care to which a playground operator is held.

8 SEC. 4. Section 115745 of the Health and Safety Code is  
9 amended to read:

10 115745. (a) After the effective date of the regulations  
11 adopted pursuant to this article, no state funding shall be  
12 available for the planning, development, or redevelopment of any  
13 playground, unless the playground, after completion of the  
14 state-funded project, conforms to the applicable regulations  
15 adopted pursuant to this article. However, where state funds have  
16 been appropriated to, or allocated for, a playground project prior  
17 to the effective date of the regulations but the regulations become  
18 effective prior to the completion of the project, that funding shall  
19 be maintained, as long as the playground is altered to conform to  
20 the regulations to the extent the alterations can be made without  
21 adding significantly to the project cost.

22 (b) After the date by which an entity is required to conform its  
23 playground to satisfy regulations adopted pursuant to this article,  
24 no state funding shall be available for the operation,  
25 maintenance, or supervision of the playground unless the  
26 playground conforms to the applicable regulations adopted  
27 pursuant to this article.

28 SEC. 5. Section 115750 of the Health and Safety Code is  
29 amended to read:

30 115750. (a) All new playgrounds open to the public built by  
31 a public agency or any other entity more than six months after  
32 the effective date of the regulations adopted pursuant to this  
33 article shall conform to the requirements of those regulations.  
34 Where the playground developer knows of the regulations before  
35 undertaking any expenses related to designing or building the  
36 playground, this six-month grace period shall not apply.

37 (b) An operator of a playground open to the public is not  
38 required to modify playground equipment that was certified in  
39 compliance with the January 1, 2000, California playground  
40 regulations due to any changes that occur after January 1, 2006.

- 1 Future changes in national ASTM or CPSC guidelines will not
- 2 require recertification or modification of playgrounds that
- 3 complied with standards in effect on the date of their installation.
- 4 *(c) This section does not affect or alter otherwise existing*
- 5 *legal duties or obligations under the law.*